



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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MEMORANDUM

DATE: June 21, 2012

TO: All Members of the Delaware State Senate
and House of Representatives

FROM: Ms. Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: H.B. 331 [Absentee Voting]

The State Council for Persons with Disabilities (SCPD) has reviewed H.B. 331 which amends Titles 14 and 15 of the Delaware Code to expand absentee voting eligibility to all registered Delaware voters and allows the required affidavit to be self-administered by every applicant. The bill also extends eligibility for permanent absentee status to any voter who applies. SCPD endorses the proposed legislation and has the following observations.

The current law, 15 Del. Code §5502, restricts eligibility for voting absentee to people in public service working overseas, people in the armed services, people absent from Delaware due to vacation, people whose occupation requires absentee voting (including familial home-based caretakers), people who are “sick or physically disabled,” or people who can’t vote for religious reasons. If a voter does not meet one of these criteria, then absentee ballots are not available.¹

Absentee ballots are a useful alternative to polling place voting for people with disabilities. Voting at the polls is still the primary and preferred method of voting for all people, including people with disabilities. However, for some people with disabilities, voting by absentee ballot may be the only viable method. Moreover, it is more convenient for everyone and the trend nationwide appears to be going toward absentee and other forms of “remote” voting. More people with disabilities will vote if absentee voting is more readily available.

¹ This statute mirrors the companion Constitutional provision. Art V, Section 4A, Delaware Constitution as amended. Arguably, the Constitution will have to be amended in order to affect this change in the law. It is worth noting that the statute does not technically extend absentee voting to voters with cognitive impairments, unless they are considered “sick,” which is certainly not ideal statutory language.

Statistics show that voters with disabilities are more likely to vote if absentee voting is available. A recently published academic study² establishes that, in general, voters with disabilities are less likely to vote than voters without disabilities. However, among voters with disabilities, individuals who experience the most difficulty leaving home or who do not want to negotiate noise and crowds are the least likely to vote. Having accessible polling places and machines will not address the needs of this group.

Absentee ballots are the most effective way for these individuals to access the voting system. Individuals with self-care and independent living difficulties voted absentee at twice the rate of voters without disabilities in 2010. The study found that in states offering absentee voting, 27% of voters with disabilities voted while only 10% voted in states without absentee voting.

All states have absentee voting, but policies differ from state to state. Delaware's statute sets a number of criteria that a person has to meet in order to vote absentee. Other states have no requirements, and are called 'No-Excuse' states. In 1972 only two states offered "No-Excuse" absentee balloting, while in 2011, 27 states offered such an option.³ Clearly the trend is to make absentee ballots available to everyone.

Many believe that eventually all states will go to "all absentee" voting, either by mail or by electronic voting, so that people can vote privately at home. Electronic voting is mandated by federal law for voters in the armed services. H.B. 196 has been introduced in Delaware which would expand the availability of electronic transmission of absentee ballots to individuals who are "sick or physically disabled." H.B. 196, however, does not expand the categories of individuals who are eligible for absentee ballots.

SCPD endorses HB 331 since it expands voting opportunities for people with disabilities.

cc: Ms. Elaine Manlove
Mr. Brian Hartman, Esq.
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

hb 331 absentee voting 6-19-12

² Thad E. Hall and R. Michael Alvarez, *Defining the Barriers to Political Participation for Individuals with Disabilities*, The Information Technology and Innovation Foundation, May 12, 2012 Washington D.C. (<http://elections.itif.org/reports/AVTI-001-Hall-Alvarez-2012.pdf>).

³ Absentee and Early Voting, National Conference of State Legislatures, www.ncls.org/legislatures-elections/absentee-and-early-voting.aspx (June 8, 2012).